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REPORT OF THE SECRETARY-GENERAL ON THE NEW YORK ROUND OF THE PEACE TALKS ON BOSNIA AND HERZEGOVINA (3-8 FEBRUARY 1993)

INTRODUCTION

1. In my report of 2 February (S/25221) to the Security Council, I related the efforts of the Co-Chairmen of the Steering Committee of the International Conference on the Former Yugoslavia to help to bring about peace in Bosnia and Herzegovina. I endorsed the peace package put forward by the Co-Chairmen as a just and viable settlement for all sides.

2. The Co-Chairmen, Cyrus Vance and Lord Owen, decided to hold a round of the peace talks in New York in order to be closer to members of the Security Council so that the good offices of the Council could be used to advantage in helping the three sides to overcome their outstanding differences. Accordingly, since coming to New York on 1 February, the Co-Chairmen have had extensive discussions with members of the Security Council, meeting in groups, and have also negotiated intensively over Friday, Saturday and Sunday, 5 to 7 February, with the three sides.

I. DISCUSSIONS WITH MEMBERS OF THE SECURITY COUNCIL

3. The Co-Chairmen met the President of the Security Council on 2 February. The same day they met with the five permanent members of the Council. On the following day, they met with the non-aligned members of the Council and also with the remaining five members.

4. The Co-Chairmen explained the process that had led them to propose their peace package and the factors that had influenced the contents of that package. They also reported the attitudes of the three sides participating in the peace talks.

5. The Co-Chairmen emphasized to the members of the Security Council their rejection of ethnic cleansing, their strongly held view that human rights and fundamental freedoms must be woven into the peace package, their insistence that Bosnia and Herzegovina should remain a sovereign, independent, integral

and multi-ethnic State in which all parts of the population could live in peace in accordance with their respective cultures and traditions.

6. The Co-Chairmen further explained that their priorities were to stop the conflict; to develop a Constitution for Bosnia and Herzegovina in accordance with the constitutional principles that had been signed by the three sides (see S/25100, appendix III); and to devise interim arrangements for the period until elections could be held pursuant to the new Constitution - all to be consistent with the principles laid down by the Security Council and at the London session of the International Conference. The Co-Chairmen also explained their concerns about the danger of the conflict spreading. In this regard, the Co-Chairmen have continued to maintain the view that even a selective lifting of the arms embargo would not be in the interest of peace or of human rights but could, instead, lead to a devastating conflagration engulfing the Balkan region.

7. The Co-Chairmen conveyed their assessment to the members of the Security Council that the peace package that they had put forward was enforceable. In their estimation, a United Nations force of 15,000 to 25,000 would be required to implement the package in Bosnia and Herzegovina.

8. The Co-Chairmen repeatedly and strongly urged the members of the Security Council to establish an international criminal court to try persons accused of grave breaches of international humanitarian law in former Yugoslavia.

9. The Co-Chairmen also met with the Contact Group of the Organization of the Islamic Conference (OIC) and developed many of the same points. During the weekend of 6 and 7 February 1992, the Co-Chairmen also spoke to Foreign Minister Djukic of the Federal Republic of Yugoslavia (Serbia and Montenegro) and briefed him on their efforts. He said that he and his Government continued to express fullest support for the Co-Chairmen and their plan.

II. MEETINGS WITH THE THREE BOSNIAN SIDES

10. The Co-Chairmen held several rounds of discussions with each of the three Bosnian sides.

A. The Bosnian government side

11. The Bosnian government side took the position throughout the New York round of the talks that it was not willing to discuss either the provincial boundaries or interim governmental arrangements. It also declined to meet together with the other two sides. The delegation raised the issue of the non-implementation of agreements reached at the London session of the International Conference and also the non-implementation of prior decisions of the Security Council. The delegation suggested that work should rather concentrate henceforth on the drafting of a new Constitution for Bosnia and Herzegovina. The Co-Chairmen told the delegation that the most optimistic estimate was that that would take three months.

12. With respect to interim governmental arrangements, the Bosnian government side wanted them to be built around the existing Government. It reintroduced into the discussion written comments (annex I) that it had presented earlier on a preliminary version of the working paper on interim governmental arrangements (see S/25221, annex V). The Co-Chairmen explained that most of the points contained in the written comments had already been accommodated in the working paper on interim governmental arrangements and also indicated why others had not been included.

13. The government delegation proposed that Serb heavy weaponry be placed immediately under international control and offered to do the same. The Co-Chairmen told the delegation that the only way that could be achieved quickly was through adopting their comprehensive peace settlement. As to further measures to deal with heavy weapons, the Co-Chairmen explained that an enforceable no-fly ban would be necessary in the event of a cessation of hostilities and that they were exploring with the United Nations Protection Force (UNPROFOR) the possibility that aircraft assigned to enforcing the no-fly zone might also be empowered to take action against any heavy weapons that have not been declared to UNPROFOR or which were breaching the cease-fire.

14. The Co-Chairmen discussed those elements that they hoped might be included in a future Security Council resolution supporting the peace package. In particular, the Co-Chairmen stressed that UNPROFOR and all other United Nations agencies would need to be authorized to have unobstructed access to anywhere in Bosnia and Herzegovina.

15. In these discussions, the Co-Chairmen indicated that they felt that it would enhance the authority of the proposed International Human Rights Commission for Bosnia and Herzegovina if its establishment was to be directly recommended by the Security Council and could address human rights and humanitarian issues with particular attention to measures for the protection of refugees and displaced persons who wished to return to their homes.

16. The Co-Chairmen also stressed that the establishment of an international criminal court to deal with persons accused of grave breaches of international humanitarian law in the former Yugoslavia would reassure people that, even after a cessation of hostilities, it would be possible to bring perpetrators of war crimes and crimes against humanity to justice.

B. The Bosnian Serb side

17. The Bosnian Serb side continued to maintain that many predominantly Serb areas had been excluded from Serb majority provinces. It continued to take the position that it would be ready to accept and to sign the map proposed by the Co-Chairmen (see S/25221, annex III) only if the populations of contested areas were consulted. The Co-Chairmen continued to reject this on the ground, as stated in my previous report (S/25221, para. 11), that there had been so much ethnic cleansing and displacement of population in Bosnia and Herzegovina that it would be wholly impractical to hold democratic consultations.

18. The Bosnian Serb side submitted to the Co-Chairmen a map suggesting wholesale changes in the proposed provincial boundaries. The Co-Chairmen said the other parties were most unlikely to agree, but they agreed to raise again with the Bosnian government delegation the suggestion, first put on the table in Geneva, to create two new provinces on the eastern border (see annex II). Of particular importance was that the expanded province No. 4 would be likely to have a majority of Muslims and include a number of towns like Brcko and Janja where Muslims were in the majority while, in the province No. 4 suggested by the Co-Chairmen, the Serbs were likely to form the majority.

19. With regard to interim arrangements, the Bosnian Serb side stated that it could not accept any arrangements that were based on the premise that the existing Constitution of Bosnia and Herzegovina continued to be valid or that the interim Government would be a continuation of the current Presidency. They continued to prefer not to call it the interim central Government but rather the "central coordinating body".

C. The Bosnian Croat side

20. It will be recalled that the Bosnian Croat side has already signed the constitutional principles, the map specifying the proposed provincial boundaries and the agreement dealing with military and security issues.

21. In their discussions with the Bosnian Croat side, the Co-Chairmen sought to explore whether any adjustments could be made in the proposed provincial boundaries that would make them more acceptable to the other two sides. The Bosnian Croat side indicated that it was prepared to entertain some changes. It put forward a number of suggestions, particularly in the eastern border of Travnik Province (No. 10) and the western border of Posavina Province (No. 3). A revised map showing the possible changes is contained in annex III to the present document.

III. THE PEACE PACKAGE

22. The Co-Chairmen indicated to the parties their intention to establish a boundary commission, with the participation of the three sides, that would determine the precise delimitation of the provinces consequent on the proposed map, and that might in addition assist the sides in negotiating any possible adjustments.

23. From the foregoing account on the New York round of the peace talks, it will be seen that the possibility of reaching agreed solutions among the three Bosnian sides was reduced by the refusal of the Bosnian government delegation to meet with the other sides or to discuss provincial boundaries. In the circumstances, the Co-Chairmen were left with the option of maintaining the peace package in the form it was presented to the Security Council in my last report (S/25221, annexes II-IV) or to modify it so as to address as far as possible the often-repeated concerns of the two sides that had not yet accepted the map dealing with provincial boundaries.

24. It was the considered judgement of the Co-Chairmen, taking into account the work done at the New York round of the peace talks, that some modifications were possible in the proposed provincial boundaries that might be acceptable to all the parties. Accordingly, they submitted to the Bosnian Croat side, as the party most affected, a revised map of the provincial boundaries. The map was then presented to the Bosnian Serbs and they rejected it and also reconfirmed their position on the original map put forward by the Co-Chairmen. The Bosnian government side was given a copy of the revised map for information, but since it was not agreed by all the parties the Co-Chairmen remain committed to their original proposal.

Annex I

Comments on the "Interim arrangements for Bosnia and Herzegovina" of the delegation of the Republic of Bosnia and Herzegovina to the International Conference on the Former Yugoslavia, dated 28 January 1993

1. The interim period for the establishment of peace until the adoption of the new Constitution and until the democratic elections take place opens a series of legal and practical questions. We do appreciate the efforts of the Co-Chairmen to restore as soon as possible all the vital functions and the whole territory of Bosnia and Herzegovina. We would like to draw your attention to the most important implications in the case of the application of the interim arrangements.

2. During the process of the international recognition of Bosnia and Herzegovina all the relevant political factors in the world, including the Badinter Commission, established that Bosnia and Herzegovina fulfils all democratic standards. The legitimacy of its democratically elected organs has not been questioned at all. Even in the situation of the aggression the legitimacy and legality of a State that is defending itself has been maintained. On the contrary, the proposed interim arrangements envisage the suspension of the democratically elected organs and the interruption of the continuity of the constitutional order.

3. This proposal produces two negative effects - it deprives the legally and democratically constituted organs of their legitimacy and at the same time it legalizes the "para-State" structures. Thus legitimate self-defence is negated and aggression is rewarded.

4. The document does not envisage any democratic and institutional framework for the elections of the representatives of three constituent peoples. It also ignores the group "others" and thus deprives a considerable part of the population of its basic democratic right to be represented in the Government. The proposal envisages decision-making by consensus in the coordinating bodies without offering any solution to overcome blockades when consensus cannot be reached. The proposal also ignores the existence of a series of other institutions which are a part of the legal system such as the Central Bank of Bosnia and Herzegovina, the Post and Telecommunications of Bosnia and Herzegovina, the National Power Authority, etc.

5. All these proposals suggest the completion of the ethnic division and of the destruction of Bosnia and Herzegovina that was started by the delimitation of provinces on the ethnic principles and was continued by the proposed constitutional arrangements.

6. In order to avoid these and other negative consequences, we propose that the interim solutions be established according to the current constitutional arrangements.

7. According to amendment LXXIII to the Constitution of the Republic of Bosnia and Herzegovina, the Presidency of Bosnia and Herzegovina along with the President of the Parliament and the Government and the Commander-in-Chief of the Bosnia and Herzegovina Army has the role of the Parliament in the situation of war. This body, whose national composition can be balanced, can at the proposal of the International Conference on the Former Yugoslavia appoint an interim Government and establish its terms of reference as well as those of the proposed coordinating bodies. The same body can appoint the coordinating bodies of the provinces in the same way. The Presidency, enlarged for that purpose, would, on the basis of its current constitutional mandate, amend the existing Constitution by issuing a decree with the force of law. The composition of the interim Government, i.e. of another corresponding body, would be ethnically balanced, as envisaged by this proposal. No individual involved in the aggression, war crimes or crimes against humanity and international law could be appointed members of such a body.

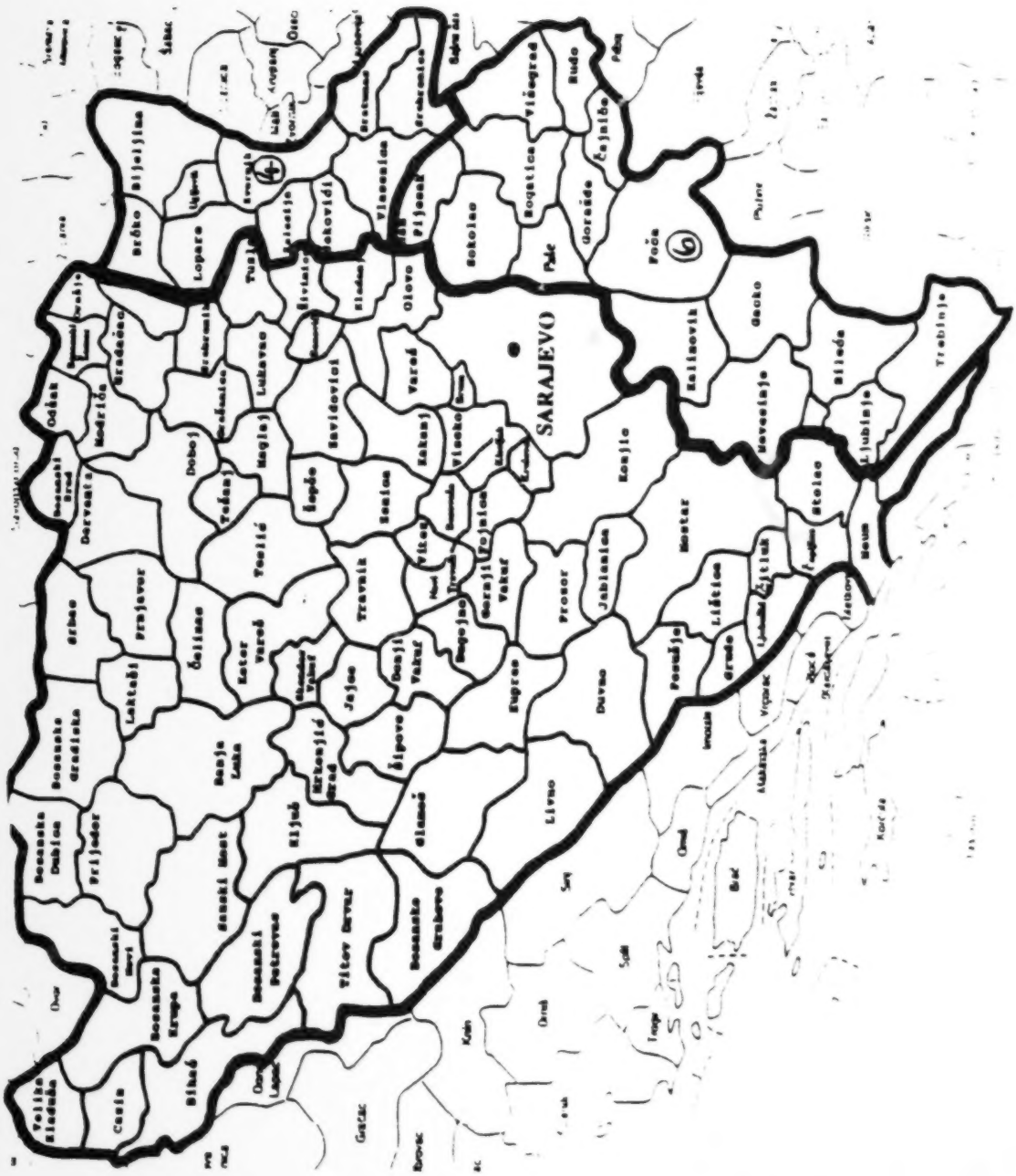
8. Since it is impossible and unprecedented that one ministerial function is carried out by three people, the possible solutions are as follows:

(a) Either the representatives of the three nations alternate after a shorter term in office;

(b) The functions of the minister and his two deputies should be clearly defined.

9. These solutions are to be applied until the end of the war. Upon the establishment of peace, the Parliament and other legal institutions of the system should carry out their functions.

Annex II



DR KARADZIC'S PROPOSAL FOR PROVINCE BOUNDARIES IN EASTERN BOSNIA

Proposed province boundaries: ———

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Annex III

BOSNIA
AND
HERZEGOVINA
SARAJEVO
Banja Luka
Bihać
Prijedor
Sanski Most
Bosanski Petrovac
Ključ
Bosanska Krupa
Bosanska Dubica
Bosanska Gradiška
Kozarska Dubica
Prnjavor
Čelinac
Kotor Varoš
Teslić
Doboj
Derventa
Modriča
Brčko
Bijeljina
Lopare
Srebrenik
Tuzla
Lukavac
Gradačac
Gračanica
Živinice
Kalesija
Sapna
Zvornik
Srebrenica
Bratunac
Skelani
Višegrad
Rudo
Čajniče
Goražde
Foča
Rogatica
Pale
Sokolac
Olovo
Kladanj
Vlasenica
Pilica
Han
Vareš
Kakanj
Visoko
Zenica
Travnik
Vitez
Busovača
Fojnica
Donji Vakuf
Gornji Vakuf
Bugojno
Jajce
Šipovo
Mrkonjić Grad
Glamoč
Bosansko Grahovo
Drvar
Titov Drvar
Livno
Duvno
Tomislavgrad
Posušje
Ljubuški
Čitluk
Mostar
Stolac
Neum
Konjic
Prozor
Jablanica
Ravno
Trebinje
Ljubinje
Bileća
Gacko
Nevesinje
Kalinovik
Rogatica
Višegrad
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Lopare
Doboj
Derventa
Modriča
Teslić
Tešanj
Maglaj
Zavidovići
Žepče
Zenica
Kakanj
Vareš
Visoko
Travnik
Vitez
Busovača
Fojnica
Donji Vakuf
Gornji Vakuf
Bugojno
Jajce
Šipovo
Mrkonjić Grad
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